

<p>BOARD OF ASSESSMENT APPEALS, STATE OF COLORADO 1313 Sherman Street, Room 315 Denver, Colorado 80203</p> <hr/> <p>Petitioner:</p> <p>GENE LEVY,</p> <p>v.</p> <p>Respondent:</p> <p>BOULDER COUNTY BOARD OF EQUALIZATION.</p>	<p>Docket No.: 69883</p>
<p>ORDER</p>	

THIS MATTER was heard by the Board of Assessment Appeals on July 14, 2017, Diane M. DeVries and MaryKay Kelley presiding. Petitioner’s son, Jeremy Levy, appeared on behalf of Petitioner. Respondent was represented by Mark T. Doherty, Esq. Petitioner is protesting the 2016 actual value of the subject property.

Subject property is described as follows:

**701 South Public Road, Lafayette, Colorado
Boulder County Schedule No. R0020741**

The subject is a 6,283 square-foot site bordered by South Public Road (Lafayette’s north-south downtown artery) and Kimbark Street. All utilities are available. A 616 square-foot structure located on the subject parcel was determined uninhabitable; the subject site is classified and valued as vacant. The subject lies within one of Lafayette’s two urban renewal areas and is commercially zoned B-1 (Community Service Business) to comply with this designation.

Respondent classified the subject as vacant land and assigned an actual value of \$102,400 for 2016 tax year which is supported by an appraised value of \$104,800. Petitioner is requesting a value of zero.

Jeremy Levy testified that his father, Gene Levy, has owned the property for forty-plus years. For most of that time, zoning was residential and the 616-square-foot residence was occupied by tenants. Following the City’s re-zoning to commercial, the tenants were evicted by the City.

Petitioner disputes the eviction and the City's ruling that residential use is no longer permitted. Petitioner is requesting a value of zero because residential use is no longer allowed.

Jeremy Levy argued that the change in classification from residential to vacant land was against his father's wishes. Classification has been residential for decades, and the change penalized his father as he is required to pay considerably higher taxes.

Jeremy Levy discussed the following notifications and citations by the City: grass in excess of 12 inches; visible graffiti, junk, trash, and for-sale signs in excess of size code and without permits. Noting similar examples elsewhere, he argued unfair treatment. In addition, he disagreed with the City's requirement to provide one off-street parking space or cash-in-lieu (currently set at \$12,000) for acquisition of parking in the downtown commercial core.

The witness did not present any comparable sales, having been told by Realtors that no sales comparable to the subject lot existed. Jeremy Levy argued that none of Respondent's sales were on South Public Road, two had non-commercial zoning, and none addressed the subject's parking issues.

Respondent's witness, Wally T. Harris, Certified General Appraisal for the Boulder County Assessor's Office, presented an appraised value of \$104,800 based on the Market Approach. Considering Highest and Best Use to be a vacant commercial site with development potential, he presented Sales One and Two, both of which carried commercial zoning and were located in another of Lafayette's urban renewal areas. After adjustments for time, qualitative adjustments were made for site size, location, access, and visibility. Due to the scarcity of commercially-zoned sales, Sales Three and Four were residential sales. Sale One was given most weight due to its commercial zoning and its urban renewal location. Sales Two and Three were given moderate weight. Mr. Harris concluded to a value of \$16.00 per square foot and then applied demolition cost for the structure of \$4,312 (\$7.00 per square foot).

With regard to the subject's "use," Respondent referenced a March 2007 letter from the City defining the site's history, residential use, commercial re-zoning, non-conforming residential use, abandonment, and determination that future use must comply with commercial zoning.

Petitioner presented insufficient probative evidence and testimony to prove that the subject property was incorrectly valued for tax year 2016.

The City of Lafayette is the appropriate venue to dispute zoning changes, not this Board. Further, the Board is not the appropriate venue to hear disputes about City of Lafayette's regulations and associated letters and citations (grass height, graffiti, trash, etc.).

The Board finds "vacant land" to be the appropriate classification for the subject. Based on vacant land classification and the site's location within an urban renewal area, the Board finds that Highest and Best Use is a vacant commercial site with development potential.

Respondent's witness correctly completed a site-specific appraisal of the subject property, comparing sales of similar vacant sites and adjusting for time and a variety of characteristics. Petitioner did not present the Board with any data to refute Respondent's sales comparables or value.

ORDER:

The petition is denied.

APPEAL:

If the decision of the Board is against Petitioner, Petitioner may petition the Court of Appeals for judicial review according to the Colorado appellate rules and the provisions of Section 24-4-106(11), C.R.S. (commenced by the filing of a notice of appeal with the Court of Appeals within forty-nine days after the date of the service of the final order entered).

If the decision of the Board is against Respondent, Respondent, upon the recommendation of the Board that it either is a matter of statewide concern or has resulted in a significant decrease in the total valuation of the respondent county, may petition the Court of Appeals for judicial review according to the Colorado appellate rules and the provisions of Section 24-4-106(11), C.R.S. (commenced by the filing of a notice of appeal with the Court of Appeals within forty-nine days after the date of the service of the final order entered).

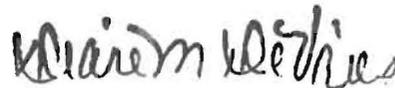
In addition, if the decision of the Board is against Respondent, Respondent may petition the Court of Appeals for judicial review of alleged procedural errors or errors of law within thirty days of such decision when Respondent alleges procedural errors or errors of law by the Board.

If the Board does not recommend its decision to be a matter of statewide concern or to have resulted in a significant decrease in the total valuation of the respondent county, Respondent may petition the Court of Appeals for judicial review of such questions within thirty days of such decision.

Section 39-8-108(2), C.R.S.

DATED and MAILED this 26th day of July, 2017.

BOARD OF ASSESSMENT APPEALS



Diane M. DeVries

MaryKay Kelley

MaryKay Kelley

I hereby certify that this is a true and correct copy of the decision of the Board of Assessment Appeals.

Milla Lishchuk

Milla Lishchuk

